

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

No. 07-CV-15284-DT

vs.

Hon. Gerald E. Rosen

SHUJA HAQUE, doctor, and
BARRY H. TIGAY, PhD,

Defendants.

_____/

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DISMISSING PLAINTIFF'S COMPLAINT

At a session of said Court, held in the
U.S. Courthouse, Detroit, Michigan
on July 9, 2008

PRESENT: Honorable Gerald E. Rosen
United States District Judge

This prisoner civil rights matter having come before the Court on the January 8, 2008 Report and Recommendation of United States Magistrate Judge Charles E. Binder recommending that the Court dismiss Plaintiff's Complaint in its entirety, with prejudice, pursuant to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief can be granted; and Plaintiff having timely filed objections to the Magistrate Judge's Report and Recommendation;¹ and the Court having reviewed the

¹ Along with his Objections, Plaintiff submitted a First Amended Complaint. This First Amended Complaint, however, does not cure the defects noted by the Magistrate Judge. Plaintiff merely adds a phrase claiming that his action is one for violation of First

Magistrate Judge's Report and Recommendation, Plaintiff's Objections, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Plaintiff's Complaint should be dismissed in its entirety; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of January 8, 2008 [**Dkt. # 4**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Plaintiff's Complaint is DISMISSED in its entirety pursuant to 28 U.S.C. §§ 1915 and 1915A for failure to state a claim upon which relief can be granted.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: July 9, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 9, 2008, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager

Amendment rights to free exercise of religious beliefs. However, there is not a single factual allegation in this "amended" complaint supporting such a claim. Rather, as with his original complaint, the factual allegations would support only a claim of "negligence" or, at best, "medical malpractice," which, as the Magistrate Judge noted, fail to state a claim of deprivation of constitutional rights.